

VIRGINIA EMPLOYMENT COMMISSION

MEMORANDUM TO:

DATE 1/4/2008

Florida X North Carolina X Kentucky X Pennsylvania X  
Texas X South Carolina X West Va. X Maryland X  
Georgia X Puerto Rico X Delaware X Other Alabama

FROM: Rural Services Manager  
Virginia Employment Commission  
P. O. Box 1358  
Richmond, Virginia 23211

SUBJECT: Request for Extension of Clearance Order No. 88387

Extension is requested for the 1 cop(ies) of the order which is/are attached,

dated 1/4/2008 for 6, Horticultural Worker II 405-687-014  
(No. of Openings) (Occupational Title and Code)

to be sent to the offices of your choice.

COMMENTS: Please indicate below the action taken by your office.

Michelle Ibama  
(signature)

\* \* \* \* \*

DATE \_\_\_\_\_

The above request has been reviewed and action taken as indicated below:

ACCEPTED \_\_\_\_\_ Location(s) to which extend:

REJECTED \_\_\_\_\_ Reason for Rejection: \_\_\_\_\_

COMMENTS:

Number of additional copies required. \_\_\_\_\_

\_\_\_\_\_  
(signature)

Agricultural and Food Processing Clearance Order  
Pedido de Empleados para Agricultura y Procesamiento de Alimentos

U.S. Department of Labor  
Employment and Training Administration  
O.M.B. Approval No. 1205-0134 Expires 08/31/2009



1. Employer's Name and Address (Number, Street, City, State, Zip Code, and Telephone Number) Nombre y Dirección del Empleador (Número, calle, ciudad, código postal y teléfono) Southside Nursery & Winfall Nurseries c/o ILMC, Labor Consultant P.O. Box 29/1055 Wilkerson Trail 230 Cameron Ave. Alton VA 24520 P.O. Box 630 Ph: (434) 579-5625 Vass, NC 28394 Ph: (910) 245-4808 Fx: (910) 245-3837		Industry Code / Código de Industria <u>111421</u>	Job Order # / No. Orden de Empleo <u>7A-88387</u>
2. Location and Direction to Work Site / Dirección del lugar de trabajo  1055 Wilkerson Trail Halifax and Campbell Counties in the state of VA  (see attachment / para más detalles vea <u>2</u> )		Occupational Title and Code / Título Ocupacional y Código 405.687-014 Horticultural Worker	
3. Location and Description of Housing / Dirección y Descripción de la Vivienda  Mobile Home Capacity: 6 1129 Wilkerson Trail, Alton VA 24520  (see attachment / para más detalles vea <u>3</u> )		Clearance Order Issue Date / Fecha de Tramite: <u>1-4-08</u>	
4. Board Arrangements / Arreglo de Alojamiento <small>Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. This paragraph applies to such workers only. Housing is not provided to non-workers. No charge will be made for beds or cooking utensils and similar items furnished to workers to whom housing is provided hereunder unless unlawfully removed or damaged beyond normal wear and tear. Housing will be clean and in compliance with OSHA housing standards when occupied. Housing includes free kitchen facilities. The kitchen and other common areas will be shared. Housing provided will be shared facilities without regard to sex. In the event that a female worker is hired, separate toilet facilities shall be provided by the employer. No tenancy in such housing is created; employer retains possession and control of the housing premises at all times and worker, if provided housing under the terms of this work agreement, shall vacate the housing promptly upon termination of employment with the assigned employer who provides such housing. Workers who reside in such housing agree to be responsible for maintaining the housing in a neat and clean manner. Reasonable repair costs of damage or loss of property, other than that caused by normal wear and tear, will be charged to the worker if he is found to be responsible for damage or loss to housing or furnishings. Workers residing in employer's housing may have mail directed to them at the employer's address.</small>		Job Order Expiration Date / Fecha de expiración: <u>07-01-08</u>	
5. Referral Instructions / Instrucciones para el Referimiento de Candidatos <small>All local and intrastate (in state) applicants are to call the employer, between the hours of 9:00 am - 3:00 pm (Eastern Standard Time) Monday - Thursday and 9:00 am - 11:00 am on Friday. All interstate (out of state) applicants may apply at any State Workforce Agency (SWA) office or by contacting employer, in accordance with the referral instructions above. State employment service agency staff are encouraged to call employers to make a referral while the applicant is at the Job Service office. Interviews will be conducted quickly over the telephone to create less of a burden on the applicant. Participation and monitoring of the interview process by SWA staff guarantees proper disclosure of the terms and conditions and protects the integrity of the interview process. Workers should be fully apprised by the local employment office of the terms, conditions and nature of employment prior to referral. Workers are not legally entitled to work in the United States and who possess original identity and employment eligibility documents sufficient to complete INS Form I-9, as required by the Immigration and Nationality Act, should report to work. Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment. Provided that workers complete section 3 of form I-9, workers will have three business days to produce the required documentation to complete section 3 of form I-9, as provided in the Act. Workers not providing the required documentation will not be allowed to go to work on the fourth business day of employment, or any subsequent days until the documentation is provided as provided in the Act.</small>		6. Anticipated Period of Employment / Periodo Anticipado de Empleo From/Desde: <u>2/15/08</u> To/Hasta <u>11/15/08</u>	
6. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semena Sunday / Domingo <u>0</u> Wednesday / Miércoles <u>7</u> Monday / Lunes <u>7</u> Thursday / Jueves <u>7</u> Tuesday / Martes <u>7</u> Friday / Viernes <u>7</u> Saturday / Sabado <u>5</u>		7. No. of Worker's Requested / No. de Trabajadores Pedidos <u>6</u>	
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8. Anticipated Period of Employment / Periodo Anticipado de Empleo From/Desde: <u>2/15/08</u> To/Hasta <u>11/15/08</u>		9. Collect Calls Accepted / Se Aceptan Llamadas a Cobrar: Employer / El Empleador Yes ___ No <u>X</u> Local Office / Oficina Local Yes ___ No <u>X</u>	
9. Collect Calls Accepted / Se Aceptan Llamadas a Cobrar: Employer / El Empleador Yes ___ No <u>X</u> Local Office / Oficina Local Yes ___ No <u>X</u>		10. Job Specifications / Descripción del Trabajo (Summary of Material Job Specifications in ENGLISH must be included inside this box) Tools and Equipment: The employer will furnish, without charge, all tools, supplies, and equipment required in the performance of the specified work. Workers will be charged for any willful damage or loss of such tools and equipment. Trees: Workers will plant, cultivate, harvest, propagate, grade, store and ship container and field grown horticultural products. Harvesting field-grown crops includes digging up products and placing on pallets. Grading is done by size. Products are measured, tied in bundles and placed in storage for shipment. Workers will also take cuttings from trees and shrubs, place in containers pre-filled with dirt & transplant seedlings to prepared areas. Shrubs and some trees are harvested for resale when they reach approximately 1-3 inches in height, although most products must reach approximately 3 feet or taller before they are ready for market. Tractor Operation: Workers will drive tractors and may use other greenhouse equipment including a flat filler. Workers will be instructed in the safety and operation of the tractor and other equipment before driving tractor or using other greenhouse equipment. Tractors should be driven in a manner to protect operator, other workers, products, trees, crops, and equipment. Repeated failure to obey safety requirements and operating instructions may result in termination. Able to work in hot humid weather for extended periods of time, bending, stooping, and reaching to plant, cultivate and harvest ground level crops. Employees must be able to frequently lift trees ranging in weight from 20 to 50 pounds and occasionally lift trees weighing up to 100 pounds. Workers are subject to random drug testing. (see attachment / para más detalles vea <u>10</u> )	
10a. Descripción del Trabajo (Summary of Material Job Specifications in SPANISH must be included inside this box)		(see attachment / para más detalles vea <u>10</u> )	

## 11. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)

Crop Activities / Cultivos	Hourly Wage Salario por Hora	Piece Rate / Unit(s) Pago por Pieza/Unidad(es)	Special Pay (bonus, etc.) Pagos Especiales (Bono, etc.)	Deductions / Deducciones	YES	NO	Pay Period Periodo de Pago
Nursery Labor	\$ 9.02	\$		FICA	*X		Weekly /
	\$	\$		Federal Tax	*X		Semi-annual X
	\$	\$		State Tax	*X		Bi-Weekly /
	\$	\$		Meals (comidas)		X	cada 2 sem.
	\$	\$		Other (specify)		X	Other / Otro

More Details About the Pay / Más Detalles Sobre el Pago  
All work will be paid the adverse effect wage rate (AEWR). In the event DOL promulgates a new AEWR during the recruitment or work contract period which is lower than the current AEWR at the time of application, this lower AEWR becomes the guarantee. In the event the AEWR is eliminated from the H-2A program during the life of this work agreement, either administratively or legislatively, the employer reserves the right to pay the new wage rate under the new guidelines as soon as it becomes effective. The employer will make the following deductions from the Worker's wages: FICA taxes and Federal Income tax as required by law. Cash advances and repayment of loans repayment of overpayment of wages to the worker, payment for articles which the Worker has voluntarily purchased from the Employer, long-distance telephone charges recovery of any loss to the Employer due to the Worker's damage (beyond normal wear and tear) or loss of equipment or housing items where it is shown that the Worker is responsible, will be charged to the Worker in writing. No deduction not required by law will be made that brings the worker's hourly earnings below the statutory minimum wage. FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa.  
(see attachment / para más detalles vea 11 )

12. Transportation Arrangements / Arreglos de Transportación (Please explain)  
The amount of such transportation payment will be equal to the Worker's actual transportation costs not to exceed the most economical and reasonable common carrier transportation charges for the distance involved. In lieu of the above payments to the workers for transportation, the employers reserve the right to charter or otherwise arrange to provide for transportation at the employer's election. Subsistence reimbursement shall be \$9.52 per day, without producing documentation of actual expenses, or will otherwise be paid as per 20 CFR 655.102(b)(5) only to those employees who are eligible under the H-2A program regulations for subsistence pay. By way of illustration and not in limitation of the foregoing, the employer will not pay transportation for such worker if he does not have suitable documents to comply with proof of identity and employment eligibility requirements of IRCA, if he is discharged for lawful job-related reasons, if he has knowledge at the place of recruitment that he can not perform the duties of the job as described above, or if he abandons this employment when he is needed by the Grower. Employer will provide transportation and subsistence under this agreement if the worker is terminated because of work related injury caused by this/these crop activities and is so certified by a doctor acceptable to employer before leaving employers farm, or termination resulting from an Act of God which makes fulfillment of this contract impossible as provided in paragraph 9C or if the worker is displaced by a U.S. worker under DOL's 50% rule. Employer will offer free transportation for workers living in employer's housing facility both to and from the daily work site. The use of the transportation by the worker is voluntary; no worker will be required as a condition of employment to utilize the transportation offered by the employer. Workers are free to choose their own means of transportation at their own expense.  
(see attachment / para más detalles vea 12)

13. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el area de usar Contratistas Agricolas para reclutar, supervisar, transportar, dar vivienda, ó pagarle a los trabajadores en este/estos tipo(s) de cosecha(s) / sembrado(s)? Yes ☒ No ☐ If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," cual es el salario que le paga el Contratista Agrícola para cada actividad?

14. Unemployment Insurance provided / Seguro por Desempleo:

Yes ☒ No ☐ if applicable excludes H-2A workers

15. Workers compensation insurance provided / Indemnización por accidente de trabajo:

Yes ☒ No ☐

16. Are tools provided at no charge to the workers? / ¿Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno?

Yes ☒ No ☐

17. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None") / Indique todo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

NONE / NINGUNO

18. List any strike work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed. (If there are no such incidents, enter "None") / Enumere todo huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno")

NONE / NINGUNO

19. Address of Order Holding Office (include Telephone number) Dirección de la Oficina donde se Radicó la Oferta (incluya número de teléfono)

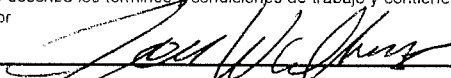
VA Employment Security Commission  
165 Deer Run Road  
Danville, VA 24540  
Ph: (434) 572-8674

20. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (incluya numero de teléfono)

Lafe Lindsey Ph: (434) 791-5291

21. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job. Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo y contiene todos los materiales, terminus, y condiciones ofrecidos.

Employer's Signature & Title / Firma y Título del Empleador



Partner

READ CAREFULLY: In view of the statutorily established basic function of the employment service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truth-fulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.

LEASE CUIDADOSAMENTE: En vista de su función básica establecida estatutariamente el Servicio de Empleo es un intercambio gratis de trabajo para juntar a los empleadores y trabajadores que buscan empleo, ni ETA ni las agencias del estado pueden garantizar la verdad y certeza de la información contenida en la Orden de Trabajo sometida por el Empleador. Tampoco, ninguna orden de trabajo aceptada o reclutada por el Servicio de Empleos constituye una oferta contractual de la cual ETA ni la agencia del Estado son parte.

Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. Respondents obligation to reply to these requirements are mandatory by 20 CFR 653.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB number. Comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden can be sent to the U.S. Department of Labor, Office of Workforce Investment, Room S-4321, Washington DC 20210 (Paperwork Reduction Act of 1995, OMB Control No. 1205-0134).

**ATTACHMENT TO ETA 790**

The term "Employer" used herein shall refer to the named employer(s) in section 1.

Workers recruited under this Job Order are recruited to work on the employer's farm shown on the addendum in the certified occupation during the period of employment shown in Item 6. The employer/members will offer US workers at least the same opportunities, wages, benefits, and working conditions as those which the employer offers or intends to offer to non-immigrant foreign workers.

1. Name and Address of Employer: Southside Nursery; P.O. Box 29 Alton VA 24520 and Winfall Nurseries; 1336 Elliott Rd., Gladys VA 24554

4. Employers will furnish free cooking and kitchen facilities to those workers who are entitled to live in the employers' housing so that workers may prepare their own meals. Workers will buy their own groceries. Once a week the employers will offer to provide (on a voluntary basis by the workers) free transportation to assure workers access to the closest store where they can purchase groceries.

Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. This paragraph applies to such workers only. Housing is not provided to non-workers. No charge will be made for beds or cooking utensils and similar items furnished to workers to whom housing is provided hereunder unless unlawfully removed or damaged beyond normal wear and tear. Housing will be clean and in compliance with OSHA housing standards when occupied. Housing includes free kitchen facilities. The kitchen and other common areas will be shared. Housing provided will be shared facilities without regard to sex. In the event that male and female workers are hired, separate toilet facilities shall be provided by the employer. No tenancy in such housing is created; employer retains possession and control of the housing premises at all times and worker, if provided housing under the terms of this work agreement, shall vacate the housing promptly upon termination of employment with the assigned employer who provides such housing. Workers who reside in such housing agree to be responsible for maintaining the housing in a neat and clean manner. Reasonable repair costs of damage or loss of property, other than that caused by normal wear and tear will be charged to the worker if they are found to be responsible for damage or loss to housing or furnishings. Workers residing in employer's housing may have mail directed to them at the employer's address on attached addendum. Workers will be provided a name and telephone number where they may be contacted in case of emergency while residing in the housing.

5. All local and intrastate (in state) applicants and interstate (out of state) applicants are to contact Joe Wilkerson at (434) 579-5625, Monday through Thursday's between the hours of 9:00 am and 4:00 pm, and on Fridays from 9:00 am until 11:00 am. Employer will interview the person for 1) Availability for entire season, 2) Available transportation to the job site, 3) Has been fully appraised by the local employment services of the terms and conditions of employment. Workers recruited against the Job Offer from within normal commuting distance will not be provided with housing, subsistence and transportation. Those that apply direct will be welcomed and accepted. Workers should be fully apprised by the local employment office of the terms, conditions and nature of employment prior to referral. Only workers legally entitled to work in the United States and who possess' original identity and employment eligibility documents sufficient to complete INS Form I-9, as required by the Immigration and Nationality Act, should report to work. Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment. Provided that workers complete section 1 of form I-9, workers will have three business days to produce the required documentation to complete section 3 of form I-9, as provided in the Act. Workers not providing this required documentation will not be allowed to go to work on the fourth business day of employment, or any subsequent days until the documentation is provided, as provided in the Act.

6. Anticipated dates of employment: 2/15/08 until 11/15/08.

7. The approximate maximum number of workers to be employed in the certified occupation by the grower is shown in the Addendum (the list of employers). The actual number of workers employed in the certified job opportunities of the grower at any given time may be more or less than the approximate numbers shown in the addendum, depending upon crop conditions, weather, markets or other circumstances that develop during the season.

8. Anticipated Hours of Work: Worker will report to work at the designated time and place as directed by the Grower each day. The standard workweek is 7 hours per day Monday-Friday and 5 hours on Saturday is normal; however, workers may be requested to work 10 hours per day depending upon the conditions in the fields and maturity of the crops but will not be required to do so. Also, the workers may be requested to work on federal holidays and on their Sabbath but will not be required to do so. Workers may volunteer to work additional hours when work is available. Down Time: Workers should expect occasional periods of little or no work because of weather, crop or other conditions beyond the employer's control. These periods can occur anytime throughout the season.

10. Job Specifications:

~~All applicants must have at least one month verifiable experience pruning flowering trees and shrubs.~~

A). Tools and Equipment: The employer will furnish, without charge, all tools, supplies, and equipment required in the performance of the specified work. Workers will be charged for any willful damage or loss of such tools and equipment.

B). Trees: Workers will plant, cultivate, harvest, propagate, grade, store and ship container and field grown horticultural products. Harvesting field-grown crops includes digging up products and placing on pallets. Grading is done by size. Products are measured, tied in bundles and placed in storage for shipment. Workers will also take cuttings from trees and shrubs, place in containers pre-filled with dirt & transplant seedlings to prepared areas. Shrubs and some trees are harvested for resale when they reach approximately 1-3 inches in height, although most products must reach approximately 3 feet or taller before they are ready for market.

C.) Tractor Operation: Workers will drive tractors and may use other greenhouse equipment including a flat filler. Workers will be instructed in the safety and operation of the tractor and other equipment before driving tractor or using other greenhouse equipment. Tractors should be driven in a manner to protect operator, other workers, products, trees, crops, and equipment. Repeated failure to obey safety requirements and operating instructions may result in termination.

Duties performed in the field will be sporadic all through the contract. Duties will include preparing soil, planting, weeding, harvesting, etc. Between harvesting, workers will be required to perform duties to prepare crops for marketing. Workers will also unload from trucks or wagons into fields for transplanting. Worker may unload and restack for storage.

GENERAL CONDITIONS APPLICABLE TO ALL CROPS: Fieldwork begins at assigned time shortly after daylight. Work is performed during light rain and in high humidity and in temperatures ranging from 100 (+) degrees to below 35 degrees F. Workers will work on their feet in bent, stooped, and crouched positions for long periods of time. Employees must be able to frequently lift trees ranging in weight from 30 to 50 pounds and occasionally lift trees weighing up to 100 pounds. All the tasks in this Job Description constitute one (1) job; the employer may assign workers to different tasks on any day or to multiple tasks during the same day in the sole judgment of the employer. Workers may be required to perform work, on the farm, that is incidental to farming the crops listed in the application, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings, seed beds, racks, grounds, operate tractor/farm equipment incidental crop set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc. This is a very demanding and competitive business in which quality specifications must be rigorously adhered to. Sloppy work cannot and will not be tolerated.

Full Crop Commitment: This is regular work, seven hours per day, Monday-Friday, and five hours on Saturday for the full remainder of the period of employment. The worker agrees to work for assigned employer(s) whenever work is available during the full remaining period of employment even though work may be slack at times. The worker understands that if he quits or is terminated for cause prior to the end of the period of employment, he will not receive the 3/4 guarantees discussed below and will not receive certain transportation reimbursements discussed below. Excessive tardiness and/or absences will not be tolerated and will result in termination.

Daily individual work assignments, crew assignments, and location of work, will be made by and at the sole discretion of the farm manager and/or farm supervisor as the needs of the farming operation dictate. Workers may be assigned a variety of duties in any given day and/or different tasks on different days. Workers will be expected to perform any of the listed duties and work on any crop as assigned by the worker's supervisor.

#### 11. Wage Rates, Special Pay Information and Deductions:

Harvesting specifications, in particular, can change from time to time during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given for each day's work.

Instructions and general supervision will be provided by the farm owner/supervisor or a designated employee. However, field workers will be expected to perform their duties in a timely and proficient manner without close supervision.

All work will be paid the adverse effect wage rate (AEWR) of \$9.02 per hour. In the event DOL promulgates a new AEWR during the recruitment or work contract period which is lower than the current AEWR at the time of application, this lower AEWR becomes the guarantee at the discretion of the employer. In the event the AEWR is eliminated from the H-2A program during the life of this work agreement, either administratively or legislatively, the employer reserves the right to pay the new wage rate under the new guidelines as soon as it becomes effective.

A). The employer will make the following deductions from the Worker's wages: FICA taxes and State and Federal Income tax as required by law. Workers will be charged for the following: cash advances and repayment of loans, repayment of overpayment of wages to the worker, payment for articles which the Worker has voluntarily purchased from the Employer, long-distance telephone charges, recovery of any loss to the Employer due to the Worker's damage (beyond normal wear and tear) or loss of equipment or housing items where it is shown that the Worker is responsible, and any other charges expressly authorized by the Worker in writing. No deduction not required by law will be made that brings the worker's hourly earnings below the statutory federal or state minimum wage. FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa.

B). Employers guarantee to offer employment for the hourly equivalent of 3/4 of the workdays of the total specified period during which the work contract and all amendments thereof are in effect, beginning with the first workday after the workers' arrival at the assigned Grower's farm, ready, willing, able, and eligible to work and ending on the expiration date specified in the work contract and all extensions thereof or upon the termination of this employment as provided below. For purposes of this guarantee, a "workday" consists of seven hours Monday-Friday and five hours on Saturday. The worker is not required to work on his Sabbath or on federal holidays which are New Year's Day, January 1; Martin Luther King, Jr.'s birthday, the third Monday in January; Presidents Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. On certain of these days, work may be available. If the worker at the conclusion of his work agreement has been afforded less employment opportunity than required under this provision, the worker will be paid at his average hourly rate for the hours, in addition to those actually offered, up to the hourly equivalent of the guaranteed number of days. In determining whether the guarantee of employment has been met, any hours which the Worker fails to work during a workday when he is offered the opportunity to work by the Employer and all hours of work actually performed shall be counted toward meeting this guarantee.

C). This employment guarantee shall be terminated before the end of the Period of Employment if the services of the workers are no longer required for reasons beyond the control of the Employer due to fire, frost, flood, drought, hail, other Act of God which makes fulfillment of this contract impossible. In such cases, the employer will make efforts to transfer worker to other comparable employment acceptable to worker. If such transfer is not effective, workers will be returned at Employer's expense to the place from which Worker, without intervening employment, came to work for employer. In the event of such termination, the 3/4-guarantee period ends on the date of termination. The guarantee shall be void from the beginning should the Worker voluntarily abandon this employment before the end of the contract period or in the event the Worker is terminated for lawful job-related reason.

D). The payroll period shall be weekly. Workers will be paid weekly.

E). Employer will provide a worker referred through the SWA Interstate System forty (40) hours of work for the week beginning with the anticipated date of need, unless the employer has amended the date of need by notifying the local employment service office at least 10 working days prior to the original date of need. If the employer fails to notify the order-holding office, then employer shall pay an eligible worker referred through the interstate clearance system \$9.02 per hour for the first week, starting with the original anticipated date of need. The employer may require the worker to perform alternative work if the guarantee cited in this section is invoked. If the worker fails to notify the order-holding office of his continuing interest in the job no sooner than nine working days and no later than five working days before the date of need, the worker will be disqualified from the above-mentioned assurance. Alternative work will be general labor and maintenance activities including, cleaning/stacking greenhouse supplies, cleaning and maintaining migrant housing, pulling weeds, fence mending and the repair and maintenance of greenhouse buildings and equipment.

F). The Employer will furnish to the worker, on or before each payday one or more written statements showing the worker's total earnings for the pay period, his hourly rate or piece rate (if applicable); the hours of work which have been offered to the worker, the total hours actually worked by the worker, an itemization of all deductions made from the worker's wages; the worker's net pay; the employer's name, address and IRS identification number.

12. Transportation: The Employer will not advance transportation and subsistence costs to Workers for transportation to the place of employment. This paragraph applies only to Workers for whom the employer is legally obligated to supply housing. After worker has completed 50% of work contract period, employer shall reimburse worker for reasonable cost of transportation and subsistence from place of recruitment to place of work. Upon satisfactory completion of the work agreement, employer will pay for such Workers reasonable costs of return transportation and subsistence to the place of recruitment, except when the worker will not be returning to the place of recruitment, due to subsequent employment with another employer who does not agree to pay such costs, in which case the employer only pays for the transportation and subsistence to the next job. The amount of such transportation payment will be equal to the Worker's actual transportation costs not to exceed the most economical and reasonable common carrier transportation charges for the distance involved. In lieu of the above payments to the workers for transportation, the employer reserve the right to charter or otherwise arrange to provide for transportation at the employer's election. Subsistence reimbursement shall be \$9.52 per day, without producing documentation of actual expenses, or will otherwise be paid as per 20 CFR 655.102(b)(5) only to those employees who are eligible under the H-2A program regulations for subsistence pay. By way of illustration and not in limitation of the foregoing, the employer will not pay transportation for such worker if he does not have suitable documents to comply with proof of identity and employment eligibility requirements of IRCA, if he is discharged for lawful job-related reasons, if he has knowledge at the place of recruitment that he can not perform the duties of the job as described above, or if he abandons this employment when he is needed by the Grower. Employer will provide transportation and subsistence under this agreement if the worker is terminated because of work related injury caused by this/these crop activities and is so certified by a doctor acceptable to employer before leaving employers farm, or termination resulting from an Act of God which makes fulfillment of this contract impossible as provided in paragraph 9C or if the worker is displaced by a U.S. worker under DOL's 50% rule. Employer will offer free transportation for workers living in employer's housing facility both to and from the daily work site. The use of the transportation by the worker is voluntary; no worker will be required as a condition of employment to utilize the transportation offered by the employer. Workers are free to choose their own means of transportation at their own expense.

Other Conditions of Employment: A). Termination: Employer may terminate the worker for lawful job-related reasons and so notify the Job Service local office if the worker: a) refuses without justified cause to perform work for which the worker was recruited and hired, b) commit serious act(s) of misconduct or serious or repeated violation(s) of the assigned grower's work rules; the Employer may make and post work rules which shall apply to this employment; the worker shall abide by such rules (a copy of Work Rules is attached) c) fails after completing the training period to perform the work as specified in Item 11 and Attachment, or d) malingers or otherwise refused without justified cause to perform as directed the work for which the Worker was recruited and hired; e) provides other lawful job-related reason(s) for termination of employment f) abandons this employment; two consecutive scheduled working days of unexcused absence shall be an abandonment of employment; employees must notify the assigned Grower and secure permission for necessary absences. g) falsifying identification, personnel, medical, production or other work related records. h) fails or refuses to take random drug test for all employees. i) commits acts of insubordination. Reason beyond employer's control" includes termination of workers, if he not a U.S. worker because a U.S. worker makes himself available for the job under DOL's 50% rule. Workers must notify the employer prior to voluntarily terminating their employment. All wages due will be forwarded to the last known address for Workers that leave without providing notice. It is imperative that workers provide a complete and accurate address to the employer no later than the first day of employment. These employers have a no complete, no rehire policy. Termination for lawful job related reasons before the specified ending date listed in this application will disqualify the employee from future employment opportunities with this employer. Workers who abandon their employment without notice during the period covered by this work agreement will be disqualified from future employment opportunities with this employer. Voluntary resignation before the specified ending date listed in this application may disqualify the employee from future employment opportunities with this employer. For workers who resign their employment voluntarily, the employer will consider and evaluate special circumstances and hardship cases on a case-by-case basis. Employees, without exception, are required to notify appropriate supervisory staff prior to voluntarily terminating their employment to be considered and eligible for exemption to the no complete - no rehire policy.

B). The employer may discipline the worker, including requiring the worker to leave the field ("time out") for a period determined by the foreman, suspension from employment for up to three days, or termination of employment as described in termination (A) above.

C). Injuries: Worker will be covered by Worker's Compensation Insurance or equivalent employer provided insurance for injuries arising out of and in the course of employment. Employer's proof of insurance coverage will be provided to the Regional Administrator before certification is granted. All workers must report all injuries and illnesses to their employer. Failure not to do so may result in termination.

D). Employer Obligation if Employment Extended: No extension of employment beyond the Period of Employment specified in the job order shall relieve the Employer from paying the wages already earned, or if specified in the job order as a term of employment, providing return transportation or paying return transportation expenses to the Worker.

E). Employer Notification of Changes in Employment Terms and Conditions: Employers will expeditiously notify the order-holding local office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over recruitment, or other factors have changed the terms and conditions of employment. The terms of this Work Agreement thereafter may be changed upon posted notice to the Worker.

F). Outreach Workers: Outreach workers shall have reasonable access to the Worker in the conduct of outreach activities pursuant to 20 CFR 653.107 and 20 CFR 653.501.

G). Training: There will be a training/demonstration and acclimation period (21 hours) to familiarize workers with job specifications and to demonstrate proper harvest methods and other crop specific issues such as, but not limited to, the proper size and color of the commodity to be harvested and particular grading specifications. The employer will not provide separate formal orientation or training periods for each different crop or each different type of task or job assignment covered within the job description. After completion of the training period, the employer will expect all workers possess the skills to work in the production of the crops noted in Item II. For purposes of this section four hours is considered a day for training purposes but the normal workday is 7 hours.

H). Work Agreement: A copy of the contract or Job Clearance Order and work rules (copy attached) will be provided to the worker by the employer no later than on the day the work commences.

I). U.S. workers may or may not be covered by unemployment insurance and may or may not be eligible under current unemployment regulations

J). Employer agrees to abide by the regulations at 20 CFR 655.103, Assurances, and 20 CFR 653.501.

K). The employer as a part of positive recruitment as per 20 CFR 655.105(a) is willing, if and when any substantial number of applicants are available, to coordinate group transportation arrangements (to facilitate their purchase of bus tickets etc.), where appropriate, and to provide any additional information that workers need to coordinate their arrival. We are an equal opportunity employer. Women and minorities are encouraged to apply to these positions.

L). There are not any strikes, work stoppage, slowdowns or interruption of operations by employees at the place where the workers will be employed.

M). For workers covered by 29 CFR 500.075(8) there are not any arrangements made with establishment owners or agents for the payment of a commission or other benefits for sales made to the workers.

N). SUBSTANCE ABUSE POLICY: This employer will strive to provide a safe and healthful work environment, free of substance abuse, for the protection of our associates, employees and visitors. The use, possession or being under the influence of illegal drugs or alcohol during working time is prohibited. (Alcohol may be permitted in the housing facility outside work hours.) Employees may also be requested to take random drug tests at no cost to the worker. Failure to comply with the request or testing positive will result in immediate termination.

\*Use of the masculine pronoun herein is for convenience of reference only.



## WORK RULES

The following work rules are intended to provide guidance to workers on the standards of conduct and performance expected of them by the Employer, these work rules are only a suggestion to the employer. The employer's use of these work rules is entirely voluntary. The employer may develop and enforce their own work rules.

Violation of these rules or other lawful job-related employer requirements, including these work rules, will be considered grounds for discipline or immediate discharge. Penalties for infractions may include suspension from work without pay for the remainder of the day, or for up to three days, in the sole judgment of the Employer, depending on the seriousness of the infraction, the worker's prior record, and other relevant factors. Repeated, serious, or aggravated infractions may result in immediate discharge. Workers are expected to comply with all rules relating to discipline, attendance, work quality and quantity, and the maintenance of all property.

1. Workers must perform their assigned work in a careful, workman-like manner in accordance with the provision of the work contract. Sloppy work will not be tolerated.
2. Use or possession of alcoholic beverages or illegal drugs is strictly prohibited during work time or during any workday before work is completed for the day (such as during meals); workers may not report for work under the influence of alcoholic beverages or illegal drugs. Illegal drugs may not be used or kept on any employer premises, including housing at any time. Use or possession of illegal drugs, failing or refusing to take a drug test will be **CAUSE FOR IMMEDIATE TERMINATION**.
3. Excessive absences and/or tardiness will not be permitted. Employees are expected to be present, on time, able and willing to perform the assigned work every scheduled workday. This is not sporadic or "day work." Excessive absences is defined as: Two consecutive days of unexcused absences or three unexcused absences in a 30 day period. Violation will be **CAUSE FOR IMMEDIATE TERMINATION**. Workers must report at assigned time and place each workday as directed by the grower or supervisor. **WORKERS WILL BE DISCHARGED FOR EXCESSIVE TARDINESS**. Excessive tardiness is defined as 2 unexcused tardies in a row or 5 unexcused tardies in a period of thirty days.
4. Workers shall maintain and keep the living quarters provided to them in compliance with OSHA 1910.142 Standards as posted in the housing and in clean condition and in good repair, allowing for reasonable wear and tear. Workers shall cooperate with other workers assigned to such housing in maintaining common kitchen and living areas in good condition. Workers will be required to keep the exterior area surrounding the camp clean and clear of debris. Workers shall promptly report any problems with housing to the employer or designated supervisor.
5. Workers living in employer's housing assigned to bunk beds may not separate bunk beds, as floor space in sleeping rooms is needed by all occupants.
6. Workers living in employer's housing may not cook in sleeping rooms or any other non-kitchen areas. Workers are forbidden from removing batteries from smoke detectors for any reason. **VIOLATION WILL BE CAUSE FOR IMMEDIATE TERMINATION**.
7. Workers must not drop paper, cans, bottles and other trash in fields, packing house, or on housing premises. Trash and waste receptacles must be used.
8. Workers may not take unauthorized breaks from work.
9. Workers may not leave the field or other assigned work area without permission of farmer or person in charge.
10. Workers may not enter employer's premises without authorization.
11. Workers may not begin work prior to scheduled starting time or continue working after stopping time unless authorized by the employer.



12. Workers living in employer's housing may not have guests in housing premises after 10:30 p.m. except on Saturday night on which guest hours end at 12:00 p.m. No persons, other than workers assigned by employer to a room, may sleep in any room.
13. Workers may not deliberately restrict production.
14. Any worker who verbally or physically threatens another worker, the farmer or any supervisor with any tool or weapon **WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**
15. **WORKERS WILL BE DISCHARGED** for fighting on the employer's premises, including housing premises, at any time.
16. Workers may not post or remove any notices, signs, or other instructions from the employer's bulletin boards or the employer's property without specific authority from the employer.
17. **WORKERS WILL BE DISCHARGED** if they steal from fellow workers or from the employer.
18. Workers may not falsify identification, personnel, medical, production or other work-related records. **VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**
19. Workers may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools or other property belonging to the employer or to other employees. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.**
20. Workers may not use or operate trucks or other vehicles, machines, tools or other equipment and property to which the worker has not been specifically assigned by his supervisor. Workers may not use or operate trucks or other vehicles, tools or other equipment or property for their personal use unless expressly authorized by the employer.
21. Workers may not misuse or remove from the farm premises without authorization from his supervisor any employer property such as trucks and other vehicles, beds, refrigerators, tools, etc. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY**
22. Workers must obey all safety rules and common safety practices and must report any injuries or accidents to their supervisor or the employer's as soon as is reasonably possible. **UNSAFE WORK BEHAVIOR MAY SUBJECT THE VIOLATOR TO DISCHARGE.**
23. Workers must follow supervisor's instructions.
24. Workers may not commit acts of insubordination - failure to regard authority.
25. After the training period, workers are expected to possess the skills necessary to perform the job described in the work agreement and to the standard set by the employer.
26. Workers may not interrupt other workers rest/sleep period by excessive noise or commotion. Workers must not play loud music after 9:00 PM on work nights or after 12:00 PM on Saturday night.
27. Workers will not knowingly engage in any type of behavior or take any action that might cause the grower to be out of compliance with any local, state, or federal law.

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## REGLAS DE TRABAJO

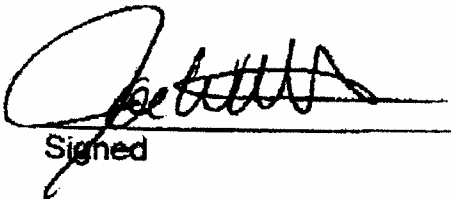
Las reglas de trabajo siguientes son queridas para proporcionar la dirección a trabajadores en los estándares de conducta e interpretación esperada de ellos por el Patrón. La violación de estas reglas u otras exigencias de patrón relacionadas con el trabajo legales, incluso estas reglas de trabajo, será considerada tierras para disciplina o descarga inmediata. Las penas para infracciones pueden incluir la suspensión del trabajo sin la paga para el resto del día, o durante hasta tres días, en el único juicio del Patrón, según la seriedad de la infracción, el registro previo del trabajador, y otros factores relevantes. Las infracciones repetidas, serias, o agravadas pueden causar la descarga inmediata. Se espera que trabajadores cumplan con todas las reglas acerca de disciplina, asistencia, calidad de trabajo y cantidad, y el mantenimiento de toda la propiedad.

1. Los trabajadores deben realizar su trabajo adjudicado en una manera cuidadosa, parecida a un trabajador de acuerdo con la provisión del contrato de trabajo. El trabajo descuidado no será tolerado.
2. El uso o la posesión de bebidas alcohólicas o medicinas ilegales son estrictamente prohibidos durante el tiempo de trabajo o durante cualquier día laborable antes de que el trabajo sea completado para el día (como durante comidas); los trabajadores pueden no hacer un informe para el trabajo bajo la influencia de bebidas alcohólicas o medicinas ilegales. Las medicinas ilegales no pueden ser usadas o siguieron cualquier local de patrón, incluso el alojamiento en cualquier momento. El uso o la posesión de medicinas ilegales, fallando o rechazando tomar una prueba de medicina serán **la CAUSA PARA LA TERMINACIÓN INMEDIATA**.
3. Las ausencias excesivas y/o la tardanza no serán permitidas. Se espera que empleados estén presentes, a tiempo, capaces y complacientes a realizar el trabajo adjudicado cada previsto el día laborable. Este no es el "o trabajo de día esporádico." Las ausencias excesivas son definidas como: Dos días consecutivos de ausencias no perdonadas o tres ausencias no perdonadas en un período de un 30 día. La violación será **la CAUSA PARA LA TERMINACIÓN INMEDIATA**. Los trabajadores deben hacer un informe en tiempo adjudicado y lugar cada día laborable como dirigido por el cultivador o supervisor. **Los TRABAJADORES SERÁN DESCARGADOS PARA LA TARDANZA EXCESIVA** La tardanza excesiva es definida cuando 2 no perdonó tardies en fila o 5 no perdonó tardies en un período de treinta días.
4. Los trabajadores mantendrán y guardarán la residencia proporcionada a ellos conforme a OSHA 1910.142 Estándares como fijado en el alojamiento y en la condición limpia y en la reparación buena, tener en cuenta el desgaste razonable. Los trabajadores cooperarán con otros trabajadores adjudicados a tal alojamiento en el mantenimiento de cocina común y áreas vivas en buenas condiciones. Se requerirá que trabajadores guarden el área exterior que rodea el campo limpio y libre de escombros. Los trabajadores relatarán puntualmente cualquier problema con el alojamiento al patrón o supervisor designado.
5. Los trabajadores que viven en el alojamiento del patrón adjudicado a literas pueden no separar literas, cuando el espacio en cuartos durmientes es necesario por todos los inquilinos.
6. Los trabajadores que viven en el alojamiento del patrón pueden no cocinarse en cuartos durmientes o ninguna otra no cocina. Los trabajadores están prohibidos de quitar baterías de detectores de humo por cualquier razón. **La VIOLACIÓN SERÁ LA CAUSA PARA LA TERMINACIÓN INMEDIATA**.
7. Los trabajadores no deben dejar caer papel, latas, botellas y otra basura en campos, embalando la casa, o en el alojamiento del local. La basura y los receptáculos de desecho deben ser usados.
8. Los trabajadores pueden no tomar rupturas no autorizadas del trabajo.
9. Los trabajadores pueden no dejar el campo u otra área de trabajo adjudicada sin el permiso de agricultor o persona responsable.
10. Los trabajadores pueden no entrar en el local del patrón sin la autorización.
11. Los trabajadores pueden no comenzar el trabajo antes del tiempo inicial previsto o seguir trabajando después del tiempo parador a menos que no autorizado por el patrón.
12. Los trabajadores que viven en el alojamiento del patrón pueden no tener a invitados en el alojamiento del local después de las 22h30 excepto el sábado por la noche en el cual las horas de invitado se terminan a las 12h00. Ningunas personas, además de trabajadores adjudicados por el patrón a un cuarto, pueden dormir en cualquier cuarto.
13. Los trabajadores pueden no restringir deliberadamente la producción.

14. Cualquier trabajador que verbalmente o físicamente amenaza a otro trabajador, el agricultor o cualquier supervisor con cualquier instrumento o arma ESTARÁ SUJETO LA DESCARGA INMEDIATA tO.
15. LOS TRABAJADORES SERÁN DESCARGADOS para luchar en el local del patrón, incluso el alojamiento del local, en cualquier momento.
16. Los trabajadores pueden no fijar o quitar ningún aviso, signos, u otras instrucciones de tableros de anuncios del patrón o propiedad del patrón sin autoridades específicas del patrón.
17. LOS TRABAJADORES SERÁN DESCARGADOS si ellos roban de compañeros de trabajo o del patrón.
18. Los trabajadores pueden no falsificar identificación, personal, médico, producción u otros archivos relacionados con el trabajo. Los INFRACTORES ESTARÁN SUJETOS LA DESCARGA INMEDIATA tO
19. Los trabajadores pueden no abusar voluntariamente o destruir ninguna maquinaria, camión u otro vehículo, equipo, instrumentos u otra propiedad que pertenece al patrón o a otros empleados.  
LOS INFRACTORES ESTARÁN SUJETOS LA DESCARGA de tO INMEDIATAMENTE
20. Los trabajadores pueden no usar o hacer funcionar camiones u otros vehículos, máquinas, instrumentos u otro equipo y propiedad a la cual el trabajador no ha sido expresamente adjudicado por su supervisor. Los trabajadores pueden no usar o hacer funcionar camiones u otros vehículos, instrumentos u otro equipo o propiedad para su uso privado a menos que expresamente no autorizado por el patrón.
21. Los trabajadores pueden no emplear mal o quitar del local de granja sin la autorización de su supervisor ninguna propiedad de patrón como camiones y otros vehículos, camas, refrigeradores, instrumentos, etc. los INFRACTORES ESTARÁN SUJETOS LA DESCARGA de tO INMEDIATAMENTE
22. Los trabajadores deben obedecer todas las reglas de seguridad y prácticas de seguridad comunes y deben relatar cualquier herida o accidentes a su supervisor o el patrón tan pronto como es razonablemente posible. EI COMPORTAMIENTO DE TRABAJO INSEGURO PUEDE SUJETAR AL INFRACTOR PARA DESCARGAR.
23. Los trabajadores deben seguir las instrucciones del supervisor.
24. Los trabajadores pueden no cometer actos de la insubordinación - fracaso de considerar autoridades.
25. Después del período de adiestramiento, esperan a trabajadores a tropas las habilidades necesarias de realizar el trabajo descrito en el contrato de trabajo y al estándar puesto por el patrón.
26. Los trabajadores pueden no interrumpir otros trabajadores descansan/duermen el período por ruido excesivo o escándalo. Los trabajadores no deben tocar la música fuerte después 9:00 de la tarde durante noches de trabajo o después 12:00 de la tarde el sábado por la noche.
27. Los trabajadores no engranarán a sabiendas en ningún tipo del comportamiento o tomarán cualquier acción que podría hacer que el cultivador fuera fuera de la conformidad con cualquier ley local, estatal, o federal.

**CONDITIONAL ACCESS**

The request for conditional access into the intrastate or interstate clearance system is made on behalf of indicated employer whose housing has not yet been inspected and found in compliance with applicable regulations and is made with the express understanding that the respective employer assumes the obligation under the applicable regulations for timely compliance with applicable housing standards. See addendum.

  
Signed10/22/07  
Date

JD Collins VP + Secretary for Winfall Nurseries Inc.

### Joint Employer Agreement

We, the undersigned growers intend to jointly employ a workforce that we will utilize on a daily sharing or alternating basis agreed among us. These workers will be housed by one or more growers within the group. We authorize ILMC to file this petition under 20 C.F.R. Part 655.101 (a)(3).

Southside Nursery  
Farm Name

By: [Signature]

Winfall Nurseries, Inc.  
Farm Name

By: JD Elkins, VP + Secretary

\_\_\_\_\_  
Farm Name

By: \_\_\_\_\_

\_\_\_\_\_  
Farm Name

By: \_\_\_\_\_

\_\_\_\_\_  
Farm Name

By: \_\_\_\_\_

\_\_\_\_\_  
Farm Name

By: \_\_\_\_\_

### **Agency and Indemnity Agreement**

This Agency and Indemnity Agreement (the "Agreement") entered into by and between the International Labor Management Corporation, Inc. (the "ILMC"), an agricultural labor consulting firm in the state of North Carolina and Winfall Nurseries an agricultural producer(s) in the state of VA, who is a Client of the ILMC ("Client").

WHEREAS, the ILMC is qualified and capable as Agent of rendering consulting and administrative services necessary to assist the Client in participating in the H-2A program and for the client to obtain domestic and/or supplementary foreign workers under the labor certification process for temporary agricultural employment in the United States ("H-2A workers") to meet the seasonable labor requirements; and

WHEREAS, the Client desires to avail himself of the consulting and administrative services of the ILMC as Agent in participating in the US government authorized H-2A alien certification program to meet the Client's seasonable labor requirements for the calendar year beginning January 1, 20\_\_;

NOW THEREFORE, in consideration of the payment by the Client of the established dues, admission fees and other assessments and such costs as are charged from time to time for providing the services requested by the Client, and for other good and sufficient consideration, including the mutual promises contained in the ILMC Bylaws and this Agreement, pursuant to the requirements of 20 C.F.R.855.101 (a)(3), and the parties hereto further agree as follows:

#### **ILMC Obligations**

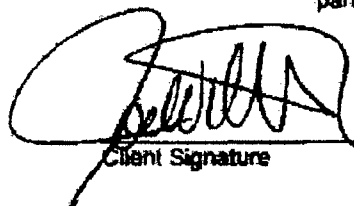
- (1) The ILMC will prepare and process forms and documents pursuant to applicable laws and regulations of the United States Department of Labor and the United States Immigration and Naturalization Service required for the client to participate in the US government authorized H-2A alien certification program.
- (2) The ILMC, on behalf of its Client, will undertake the administrative tasks of the domestic recruitment requirements as established by the regulations and guidelines of the United States Department of Labor (limited exclusively to placing advertisement in newspapers and radio, listing the job order with the appropriate State Employment Service Agency, and preparing and filing the necessary recruitment report for the United States Department of Labor), in order for the client to participate in the H-2A program.
- (3) The ILMC will maintain, either directly or through its designated representatives, all contacts with the State Employment Service Agency, the State Department of Labor, the United States Department of Labor, and the United States Immigration and Naturalization Service, and other governmental agencies necessary to effectuate the purpose of this Agreement

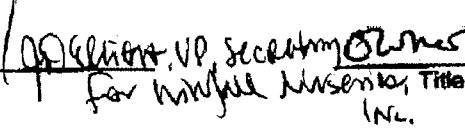
#### **Client Obligations**

- (4) The Client agrees to comply timely with all reasonable policies, procedures, and schedules established by the ILMC which it considers essential for compliance with laws and regulations, successful participation and for the proper operation of the H-2A program.
- (5) The Client agrees to comply with all of the terms and conditions of employment made by the ILMC on the Client's behalf in the Agricultural and Food Processing Clearance

Order, ETA Form 780, and Application for Alien Employment Certification, ETA 750 ("Job Order") and with each term of the agricultural work agreement, which describes all the material terms and conditions of employment, that is entered into with both U.S. and H-2A workers by the Client. The Client agrees to familiarize himself with the terms and conditions of employment in the job order and the agricultural work agreement and to comply with all obligations imposed on the Client as an employer of U.S. and/or H-2A migrant and/or seasonal agricultural labor found in applicable law and regulations, including without limitation, those at 20 C.F.R. Parts 653 and 655.

- (6) In particular, but not limiting the foregoing, the Client agrees a) to pay worker's required wages and benefits, b) to make those deductions from the worker's paychecks which are required and only those deductions allowed by law, c) to provide housing as required which meets all applicable standards, d) to reimburse timely required transportation and associated daily subsistence costs, e) to provide written statements of the worker's total earnings, hourly rate and/or piece rate of pay, the hours of employment which had been offered to the worker, the hours actually worked by the worker, and itemization of all deductions made from the worker's wages and, if rates are used, the units produced daily, and f) to terminate the worker only for lawful job related reasons.
- (7) The Client agrees to pay timely any judgment or penalty entered against Client and to indemnify and hold harmless the ILMC and any of its other Clients for judgments entered against it or them arising out of the Client's violation of his obligations under applicable law or regulation (including 20 C.F.R. Parts 653 and 655), the job order or the agricultural work agreement and any attorneys' fees and costs incurred by the ILMC or other Clients in defending against such claim. Client acknowledges that the laws and regulations governing the employment of migrant and seasonal farm labor and supplementary foreign agricultural workers are subject to disputed interpretations. Therefore, the Client agrees that in matters in which a claim is made or litigation is instituted against the ILMC's Board of Directors may exercise its discretion as to settle such matters on behalf of itself and the Client on terms it deems appropriate, b) to litigate such matters, and c) to determine whether such settlements, judgments, penalties, costs and attorneys fees will be borne by the Client out of whose alleged action or inaction the claim was asserted or, what amount, if any, will be borne by the ILMC and/or shared among its Clients. The terms of this Paragraph 4 survive any future separation of the parties to this agreement and the term of this Agreement.
- (8) The Client agrees to pay the ILMC any assessment made by the ILMC as the Client's share of legal and any other expense or liability incurred by the ILMC in defending, prosecuting or settling any application for H-2A certification, claim, litigation, or administrative complaint or appeal, whether or not arising out of claims against the Client or arising out of the fault of the Client, in accordance with a formula approved by the ILMC. The terms of this paragraph 5 survive any future separation of the parties to this agreement and the term of this Agreement.

  
Client Signature

  
for Winfall Nurseries, Title Inc.

Sarah E Farrell, Vice-President, ILMC